

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA

RECEIVED  
USDC, CLERK, CHARLESTON, SC

William Howard Rutland, III, #0903025, )  
aka William H Rutland, III, )

2010 JAN 19 A 11:05

Plaintiff, )

Civil Action No. 8:09-2165-SB-BHH

v. )

Officer Nathan Rollins, BCSO, )

**ORDER**

Defendant. )  
\_\_\_\_\_ )

This matter is before the Court upon the Plaintiff's pro se complaint, filed pursuant to 42 U.S.C. § 1983. In his complaint, the Plaintiff asserts that the Defendant arrested him on a bench warrant but that he had already served time for the charges listed on the warrant, and therefore, he should not have been arrested.


The record contains the report and recommendation ("R&R") of a United States Magistrate Judge, which was made in accordance with 28 U.S.C. § 636(b)(1)(B) and Local Rule 73.02(B)(2)(d). In the R&R, the Magistrate Judge recommends that the Court dismiss the Plaintiff's complaint for failure to state a claim upon which relief may be granted. Specifically, the Magistrate Judge noted that the Plaintiff was arrested with a warrant, and under § 1983, "a public official cannot be charged with false arrest when he arrests a defendant pursuant to a facially valid warrant." Porterfield v. Lott, 156 F.3d 563, 568 (4th Cir. 1998); Brooks v. City of Winston-Salem, 85 F.3d 178, 181-82 (4th Cir. 1996).

The Plaintiff filed objections to the R&R as well as an affidavit, wherein he asserts that the Defendant did not have a warrant to arrest him. Stated differently, the Plaintiff asserts that there was no warrant for his arrest and that he was falsely arrested in violation

of the Fourth Amendment.

Based on the information alleged in the Plaintiff's objections and affidavit, the Court declines to adopt the R&R at this time. Instead, the Court remands the matter to the Magistrate Judge for further proceedings in light of the Plaintiff's assertion that the Defendant falsely arrested him without a warrant.

**IT IS SO ORDERED.**

  
The Honorable Sol Blatt, Jr.  
Senior United States District Judge

January 19, 2010  
Charleston, South Carolina

~~#2~~